IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 32 OF 2005

KUM.SHRUTI GURUDAS PHALDESSAI,MARGAO GOA. ....Petitioners

Versus

THE GOA BOARD FOR SECONDARY & HIGHER SECONDARY & A ....Respondents

Shri Nitin Sardessai, Advocate for the petitioner.

Shri J. M. Mulgaonkar, Advocate for the respondent No.1.

Shri Guru Shirodkar, Addl. Govt. Advocate for the respondent No.2.

Coram:- R. M. LODHA &
N. A. BRITTO, JJ.

Date:- 29th August, 2005

P.C.

Heard Mr. Sardessai, the learned Counsel for the petitioner.

2. The petitioner challenges the assessment made by the respondents and also the correctness of the key answer furnished to the Examiner by the respondents. It is the petitioner's case that though she had correctly answered the questions 5, 6 and 7 in Chemistry paper, the Examiner who asssessed the petitioner's paper, marked the same wrong and either awarded zero or half mark.

3. We wanted to know from the learned Counsel for the petitioner whether there were Rules for re-examination or re-assessment concerning the said examination.

4. The learned Counsel for the petitioner submitted that he has not been able to lay his hands to the Rules framed by the Goa Board of

Secondary and Higher Secondary Education, which provide for re-examination or revaluation. However, he relied upon the Judgment of the Division Bench of this Court in the case of Indranil D. Deshmukh vs. Mumbai University through its Vice Chancellor, 2004 (2) Mh. L.J. 236.

5. For want of any rules that permits re-examination or re-valuation of the papers by the Goa Board of Secondary and Higher Secondary Education, we are afraid what is directly not permitted by the rules cannot be got done through the Court indirectly.

6. In so far as Indranil D. Deshmukh's case is concerned, in paragraph 10, the Division Bench observed thus :

> " In our opinion, interst of justice would be met in the present case, if a direction is issued to the respondent-University and its Board of Examinations established under section 31 of the Maharashtra Universities Act, 1994 to consider the application of the petitioner for re-examination of his answer book in the light of the contentions raised by the petitioner in that application. If the answer of the petitioner is found correct and the valuation is found wrong, then the petitioner can avail of Ordinance No.5046 and seek 100 % moderation. If he fails to satisfy the Board, there is no question of his approaching either the the University under Ordinance 5046 or this court as the only grievance he has to make and should make is before the Board of Examination under section 31."

7. What the Division Bench directed was that under Section 31 of the Maharashtra Universities Act, 1994, the Mumbai University and its Board of Examination shall consider the petitoiner's application therein for re-examination of his answer book. No such similar provision was shown to us by the learned Counsel for the petitioner.

8. We are afraid that the directions sought for by the petitioner cannot be granted for want of any rules framed by the Goa Board of Secondary and Higher Secondary Education for re-valuation/re-assessment.

9. The writ petition is, accordingly, dismissed in limine.

R. M. LODHA, J.

N. A. BRITTO, J.